

NATURAL RESOURCES COMMISSION

Meeting Minutes

May 16, 2007

Pursuant to the notice duly filed with the Town Clerk, the meeting of the Natural Resources Commission was held in the First Floor Meeting Room, 141 Keyes Road, Concord, MA at 7:00 p.m. on Wednesday, May 16, 2007. The following Commissioners were present: Chair, Paul Feshbach-Meriney; Alexander Easterday; Montgomery Lovejoy; Jamie Bemis; and Steve Verrill. Delia Kaye, Natural Resources Administrator; Katie Holden, Natural Resources Assistant Administrator; and Cynthia Gray, Natural Resources Administrative Assistant were also present.

MIDDLESEX SCHOOL CONSERVATION RESTRICTION (CR 101)

Gordon Bell, Margaret Wheeler, Land Protection Specialist for Trustees of Reservations and James Saltonstall, Assistant Head of Financial Operations of Middlesex School attended. Gordon Bell helped prepare this proposed "CR2" with Margaret Wheeler who presented the public value. CR2 was required in the Settlement Agreement between Middlesex School and the Town of Concord. CR2 contains 66.5 acres of land. EOEA has approved a draft of CR2. The Trustees of Reservations has collected Baseline Documentation and will hold and monitor the Conservation Restriction and Trail Easement which will be subject to regulations of Middlesex School. The Commission requested copies of the monitoring reports and Baseline Documentation for their files. Delia Kaye received an e-mail from Mariam Thornton acknowledging support of the proposed Conservation Restriction.

The Commission made a recommendation of support for CR2 to the Board of Selectmen.

CONTINUANCES:

CONCORD ACADEMY – 176 Main Street / NOI – DEP File #137-927

Peter Williams of Vine Associates appeared together with the Applicant, Don Kingman, Director of Operations for Concord Academy. This project involves the installation of a subsurface drainage system in the three athletic fields within the 200-foot Riverfront Area of the Sudbury River, Bordering Land Subject to Flooding and 100-foot Buffer Zone to Bordering Vegetated Wetlands.

The middle and upper fields were established 50 years ago while the lower field was established in the mid '80s. The fields are subject to flooding.

Peter Williams met with Delia Kaye on-site Monday and reflagged the wetland. Natural Heritage and Endangered Species correspondence received indicates no adverse affect on the actual Resource Area Habitat of state-protected rare wildlife species.

The Commission and DNR staff discussed concern about infiltrating and keeping flow on site. The Applicant stated the pipes were to handle groundwater and not stormwater runoff. Delia Kaye asked about groundwater elevations. Delia Kaye indicated that the PVC piping takes water away from the field, but water still needs to be infiltrated on-site.

Delia Kaye is requesting calculations using typical stormwater management standards in accordance with the Regulations. She will followup with DEP.

Katie Holden asked for clarification the proposed swales will not remove any existing plantings.

Additional information requested by the Commission needs to be received by NRC staff no later than May 30, 2007.

The hearing is continued to June 6, 2007.

CAGGIANO – 94 Dalton Road / NOI – DEP File #137-922

Scott Smyers of Oxbow Associates appeared together with the Owner/Applicant, Matthew Caggiano. This project involves renovations and an addition to an existing single-family home located at the end of a cul-de-sac within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

Delia Kaye indicated that Chuck Katuska had visited the site with Scott Smyers and determined the wetland line to be at the edge of the natural vegetation, approximately 52 feet from the proposed garage. NRC staff has not received a written report from Chuck Katuska as of the time of this hearing.

Scott Smyers has submitted his soil test letter dated May 16, 2007 to the Commission Members and NRC staff at this hearing.

The hearing is continued to June 6, 2007. Contingent upon receiving a report from Chuck Katuska and revised plans from Oxbow, the Commission agreed to prepare an Order of Conditions for the next meeting.

NEW APPLICATIONS

FOX – 13 Estabrook Road / NOI – DEP File #137-932

William McNary of Stamski and McNary appeared. The construction of a single-family home, installation of an on-site sewage disposal system and associated grading and landscaping, a portion of which is located within 100 feet of Bordering Vegetated Wetlands.

Katie Holden stated she checked the silt fences this day and everything appeared okay.

Montgomery Lovejoy moved to close the hearing. Alexander Easterday seconded. All so voted. Montgomery Lovejoy moved to issue a standard Order of Conditions with Special Conditions 18-41. Steve Verrill seconded. All so voted.

**CONCORD WOLD, LLC – Annursnac Hill Rd & Commerford Rd / ANRAD –
DEP File #137-929**

Rich Harrington of Stamski and McNary, David Crossman of B & C Associates, Inc. and Applicant, Jim White appeared as well as various members of the Annursnac Hill neighborhood and their Wetlands Specialist, Paul J. McManus of EcoTec, Inc. The Applicant requests confirmation of delineation of the Bordering Vegetated Wetlands and wetland resource area boundaries.

Paul Feshbach-Meriney stated that the Commission was only addressing the Resource Area at this time.

Rich Harrington made a presentation to the Commission. David Crossman has submitted the data forms for this project. There are six parcels under agreement and two abutting parcels. In one area, Rich Harrington and David Crossman are asking the Commission to approve the Bank of an intermittent stream as Bank only with no associated Bordering Vegetated Wetlands.

Janice Redlich, 5 Wingate Lane, Acton, asked if the 200-foot Riverfront area was being treated as wetlands.

David Crossman discussed the Riverfront Area and indicated that 100 feet on either side of the brook cannot be disturbed.

Margaret Dimock of 79 Commerford Road, asked if the Bank was protected.

Mark Durham of 105 Commerford Road, asked about the overflow from the Pond and if there were no observations done year round.

Rich Harrington indicated that they are trying to identify all Resource Areas, which will stand for three years under the ORAD.

Allyn Dimock, 79 Commerford Road, indicated that the Pond on the Benincasa property was not shown on Stamski and McNary's map, but it is shown in an aerial photo.

Joan Ferguson, 62 Nashoba Road, noted that the area in question is shown as an intermittent stream on the USGS map.

Delia Kaye discussed the Riverfront Area and the Regulations pertaining to an intermittent versus a perennial stream.

Rich Harrington indicated that the intermittent stream results were .067 square miles.

Arlene Connolly, 60 Commerford Road, asked how would one predict what construction would do to affect an intermittent stream.

Paul Feshbach-Meriney again addressed the audience that since there was no project per se, that the issue would be addressed at a more appropriate time.

Paul McManus, President of EcoTec, Inc. spoke to the Commission on behalf of the Annursnac Hill neighborhood. He noted that (1) the wetlands on all lots are not identified on Stamski & McNary's map; (2) not the only point of Bank; and (3) requests he be able to attend the site visit together with one Association member as an observer.

Delia Kaye indicated that the request to attend the site visit would be at the discretion of the Applicant and that the appropriate parties should converse before-hand to keep the NRC from being caught in the middle.

Attorney Michael Thomas, counsel for an abutter located at 517 Annursnac Hill Road, asked for clarification on the issue of intermittent v. perennial streams.

Allyn Dimock, 79 Commerford Road, noted a culvert on the Benincasa property.

Alexander Easterday indicated to Rich Harrington that all Resource Areas are not noted on the two abutting parcels.

Rich Harrington acknowledged that there are more wetlands on the other two properties which are not identified on the plans.

The Commission asked about information regarding the status of the stream from Acton.

Marc Redlich, 5 Wingate Lane, Acton, noted that behind his property and behind Lot 3 (on the Concord side of the Town line) is a lot of wetlands.

Paul Feshbach-Meriney noted that wetlands were delineated on the property.

Margaret Dimock, 79 Commerford Road, indicated that there is fill on the Benincasa property in the front with woodchips.

Mark Durham, 105 Commerford Road, expresses concern regarding runoff from the Benincasa property. He asked if this stream was perennial.

The Commissions stated the stream on the Benincasa property was determined to be intermittent during a filing.

Janice Redlich, 5 Wingate Lane, Acton, asked how long the stream was.

Paul Feshbach-Meriney indicated that it was based on drainage.

Rich Harrington indicates that the three streams blend in with the intermittent stream.

Mark Durham, 105 Commerford Road, notes a body of water to the right of the driveway. He asked what kind of water is it and were there any studies on it?

David Crossman indicated that this is a potential vernal pool.

Delia Kaye noted that the Commission had hired a wetland scientist to help review the line.

Margaret Dimock, 79 Commerford Road, asked about the delineation of the Bank and could a road be put over the Bank.

Delia Kaye noted performance standards for BVW vs. Bank and indicated that yes, a road can be put over a Bank in certain cases.

The Commission requested a flag series and narrative be provided by Stamski and McNary.

The public asked if they could have a representative at the site visit. The Commission stated this was up to the Applicant.

A site walk is scheduled for Tuesday, May 29, 2007 at 1:00 p.m. The Commission will request Chuck Katuska to attend and all parties will meet at Commerford Road.

This hearing is continued to June 6, 2007.

CLOSE HEARING/ISSUE PERMITS

Estabrook Road Nominee Trust (Parafestas) – 55 Estabrook Road / NOI – DEP File #137-925

Alexander Easterday moved to close the hearing. Montgomery Lovejoy seconded. All so voted. Alexander Easterday moved to approve Finding A. Montgomery Lovejoy seconded. All so voted. Alexander Easterday moved to issue a standard Order of Conditions with Special Conditions 18-46. Montgomery Lovejoy seconded. All so voted.

Kramer - 71 Spencer Brook Road / NOI – DEP File #137-926

William McNary of Stamski and McNary appeared. The proposed project is for installation of underground utilities, repair of existing driveway and construction of additional driveway within the Riverfront Area of Spencer Brook and 100-foot Buffer Zone to a Bordering Vegetated Wetland.

William McNary of Stamski and McNary has submitted stream statistics and a revised plan to NRC staff and DNR staff found to be acceptable.

Alexander Easterday moved to close the hearing. Jamie Bemis seconded. All so voted.

Alexander Easterday moved to approve Findings A, B and C. Steve Verrill seconded. All so voted. Alexander Easterday moved to issue a standard Order of Conditions with Special Conditions 18-39. Jamie Bemis seconded. All so voted.

Thompson – 330 Main Street / NOI – DEP File #137-928

Alexander Easterday moved to close the hearing. Steve Verrill seconded. All so voted. Alexander Easterday moved to approve Findings A and B. Jamie Bemis seconded. All so voted. Alexander Easterday moved to issue a standard Order of Conditions with Special Conditions 18-40. Steve Verrill seconded. All so voted.

CPW – Townwide – DEP File #137-924

Alexander Easterday moved to close the hearing. Montgomery Lovejoy seconded. All so voted. Alexander Easterday moved to issue a standard Order of Conditions with Special Conditions 18-47. Montgomery Lovejoy seconded. All so voted.

ISSUE EXTENSION PERMITS

CPW – Townwide general drainage permit – DEP File #137-708

Delia Kaye recommended re-issuance for a 5-year extension.

Steve Verrill moved to reissue an Extension Permit for a period of five years. Jamie Bemis seconded. All so voted.

OTHER BUSINESS

Minutes

Montgomery Lovejoy moved to approve the May 2, 2007 Minutes as amended. Alexander Easterday seconded. All so voted.

Middlesex School Conservation Restriction

Commission Members reviewed Application Language and signed the Certification as requested by Margaret Wheeler and Gordon Bell.

Chair

Jamie Bemis moved to nominate Alexander Easterday as Chair of the Natural Resources Commission effective next Commission meeting scheduled for June 6, 2007. Steve Verrill seconded. All so voted.

Community Preservation Committee

Alexander Easterday will step down from his position as Community Preservation Committee representative and become Chair of the Natural Resources Commission effective June 6, 2007. Paul Feshbach-Meriney will notify Chris Whelan. The Commission discussed Jamie Bemis becoming the CPC representative for the NRC.

Setback Policy

Delia Kaye is finishing up with a draft of the 50' Setback Policy which will be submitted to Commission Members in their next meeting packets.

M.G.L. Ch. 44, Section 53G

This matter has been tabled until June 6, 2007.

Wetlands By-Law Discussion

Jamie Bemis gave the Commission Members a copy of the outline from the wetlands by-law discussion held on May 11, 2007.

MACC Certification

Jamie Bemis has become the first Commissioner to finish the MACC Certification Program.

The meeting adjourned 9:45 p.m..

Respectfully submitted,

Delia Kaye, Natural Resources Administrator

Katherine Holden, Natural Resources Assistant Administrator

Cynthia L. Gray, Natural Resources Administrative Assistant